

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
MEMORANDUM**

**TO:** Holders of the MaineCare Eligibility Manual  
**FROM:** Dale Denno, Director, Office for Family Independence  
**DATE:** August 15, 2012  
**SUBJECT:** Proposed Policy #262P:

**OFI Policy, 10-144 CMR Chapter 333**

- Reduction in Income Limit for Low Cost Drugs for the Elderly and Disabled

**This is not a MaineCare rule, but is a state-only funded program.**

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Attached to this memorandum please find policy statement release(s) as described below:

**SUBJECT:** Proposed Policy #262P:

**OFI Policy, 10-144 CMR Chapter 333**

- Reduction in Income Limit for Low Cost Drugs for the Elderly and Disabled

**CONTENT:** See attached memo.

**COMMENT PERIOD:** Consideration will be given to comments, suggestions and objections, which should be submitted to:

Doreen McDaniel, MaineCare Program Manager  
Department of Health & Human Services  
Office for Family Independence  
11 State House Station, 19 Union Street  
Augusta, ME 04333-0011  
Telephone: (207) 624-4106  
TTY: (800)-606-0215 (Deaf/Hard of Hearing)

**NO LATER THAN:** Midnight, September 14, 2012

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
MEMORANDUM**

**TO:** Program Administrators, Supervisors and Other Interested Parties

**FROM:** Doreen McDaniel, MaineCare Program Manager

**DATE:** August 15, 2012

**SUBJECT:** Proposed Policy #262P:

**OFI Policy, 10-144 CMR Chapter 333**

- Reduction in Income Limit for Low Cost Drugs for the Elderly and Disabled
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**This is a PROPOSED Rule:**

This proposed rule implements Public Law 2011, ch. 657, Part HH, § HH-1.

Rule #262P makes changes to Chapter 333 of the OFI Eligibility Manual, Low Cost Drugs for the Elderly and Disabled, by reducing the income limit for the Low Cost Drugs for the Elderly and Disabled (DEL) program from 185% to 175% of the Federal Poverty Level (FPL). This proposed rule also makes several technical and clarifying changes throughout Chapter 333. These are formatting changes and rephrasing of text to clarify and correct imprecise, confusing, or ambiguous language.

A public hearing will be held at 9:00AM on September 4, 2012, at 19 Union Street, Augusta, Maine.

Comments will be accepted until midnight on September 14, 2012.

## **10-144 CODE OF MAINE REGULATIONS CHAPTER 333 LOW COST DRUGS FOR THE ELDERLY AND DISABLED (DEL)**

The Maine Drugs for the Elderly Benefit, also referred to as the Maine Low Cost Drugs for the Elderly or Disabled (DEL) Program, is authorized by, and these regulations are issued under, the authority of 22 M.S.R.A., ~~Sec.~~ § 254-D. The responsibility for implementing this legislation is with the Department of Health and Human Services.

~~Although utilized as part of the MaineCare Eligibility Manual (10-144 CMR Chapter 332),, this benefit uses state funds only, and is not a Medicaid program, is a separate chapter in the DHHS section of the Code of Maine Regulations (10-144 CMR Chapter 333). Part references below are to earlier Parts and Sections of the MaineCare Eligibility Manual.~~

### **SECTION 1 COVERED INDIVIDUALS**

- I. Age -  
Individuals must be age 62 or older ~~or~~ age 19 through age 61 and meet the disability criteria for SSI (Supplemental Security Income under Title XVI of the Social Security Act). See [MaineCare Eligibility Manual, Ch. 332](#), Part 6, Section 5.1.
- II. Residence -  
Individuals must meet Medicaid criteria for residence (See [MaineCare Eligibility Manual, Ch. 332](#), Part 2, Section 4).
- III. Citizenship -  
Individuals must meet Medicaid criteria for citizenship, ~~except they do not need to provide documentation of citizenship or identity~~ (See [MaineCare Eligibility Manual, Ch. 332](#), Part 2, Section 3).

Certain individuals who do not meet the Medicaid citizenship requirements may be eligible for DEL. They are:

- A. Undocumented alien – aliens who do not have documentation of their citizenship status from ~~BCIS~~ [the U.S. Citizenship and Immigration Services](#).
- B. Ineligible alien – aliens legally admitted on a temporary basis. The following are examples of individuals who are ineligible aliens:
  1. Foreign government representatives on official business and their families and employees;
  2. Visitors for business or pleasure, including exchange visitors;
  3. Aliens in travel status while traveling directly through the United States;
  4. Crewmen on shore leave;
  5. Treaty traders and investors and their families;
  6. Foreign students;
  7. International organization personnel and their families and servants;
  8. Temporary workers, including agricultural contract workers;

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9. Members of foreign press, radio, film or other information media and their families; or
10. Parolee in the U. S. under Section 212 (d)(5) for less than one year unless they are granted "temporary parolee status".

The following individuals are not eligible for DEL. They are considered to be residents of a public institution.

- I. Inmates of the state prison, juvenile corrections facilities, local or county jails.
- II. Individuals admitted to reside in a public (or private) medical institution classified as an IMD (Institution for Mental Disease) for over thirty days: Spring Harbor, Acadia, Riverview Psychiatric Center, Dorothea Dix Psychiatric Center.

**Section 1.1 DEL and Medicare Part D**

An individual who meets all criteria in this ~~Part~~ Chapter will have their benefit affected by the following conditions:

- I. Individuals who are enrolled in Medicaid or HIV Limited Benefit are not eligible for DEL unless they are also eligible for Medicare Part D.
- II. Individuals who apply for DEL and who are eligible for Medicare Part D must take action to enroll in Medicare Part D and a Prescription Drug Plan at the next available opportunity to do so.
- III. Individuals who are enrolled in DEL and subsequently become eligible for Medicare Part D must enroll in Medicare Part D and a Prescription Drug Plan at the first available opportunity to do so.

~~III.~~ If the individual does not comply with II. or III. above they are ineligible for DEL until they comply.

There is good cause for not enrolling in Medicare Part D and a Prescription Drug Plan if:

- I. The individual is denied enrollment by Medicare or by a Medicare Prescription Drug Plan due to circumstances beyond his/her control.
- II. The individual has prescription drug coverage which is determined by the insurer to be creditable coverage. Creditable coverage means that the coverage on average is at least as good as the standard Medicare Prescription drug plan.

**SECTION 2 APPLICATION PROCESS**

An application ~~is the request~~ for DEL coverage is made by signing the Agency's application form for DEL or MaineCare. The individual or anyone acting on the individual's behalf may sign the application form. The applicant may choose anyone to help in completing the form.

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The date of application is the date the signed and dated application form is received in any regional office of the Department of Health and Human Services.

All signed applications will be acknowledged in writing. A written decision of eligibility will be sent to the applicant.

Coverage starts the first day of the month of application or the first day of the month an individual meets program requirements, whichever is later.

A reapplication is any signed application form received after the Adverse Action Notice Period. This includes review forms returned after that period.

All applicants or reapplicants will be given information in writing, or verbally if appropriate, about the following:

- I. services covered under DEL;
- II. the individual's rights, including hearings; and
- III. responsibilities of recipients, including reporting changes.

Individuals who are enrolled in Medicaid and/or Medicare Buy-In (MSP), who are eligible for Medicare Part D, are deemed to be eligible for and enrolled in DEL. They do not need to file a separate application for DEL.

## **Section 2.1 Assets**

There is no asset criteria.

## **Section 2.2 Income**

Gross non-excluded income of the applicant and spouse is used to determine eligibility. SSI--Related eligibility criteria is used to determine what is considered as income and what are income exclusions. Income exclusions include the exclusions defined in the SSI--Related deeming process.

Effective October 1, 2012 Gross monthly income must be equal to or less than ~~185~~175% of the Federal Poverty Level (See Chart 6).

If the assistance unit spends at least 40% of its gross monthly income on prescription drugs, the monthly income limit is increased by 25%.

## **SECTION 3 CONTINUED ELIGIBILITY**

Individuals enrolled in DEL have their eligibility reviewed every twenty-four months. Once determined to be eligible and enrolled in the program, individuals are continuously eligible for twenty-four months, starting with the month of enrollment or the month of the most recent review, without regard to changes in income.

Individuals must continue to meet the requirements of age, disability, residency, and citizenship as defined in this rule. Once an individual does not

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meet or comply with any of the requirements set forth in this rule, that individual is ineligible for the DEL program.

Individuals must notify the Department within ten days when they know, or should know, of a change to their circumstance that would disqualify them from the program.

#### **SECTION 4 NOTICE OF ELIGIBILITY**

Individuals will be given written notice of eligibility for this state funded program, based on MaineCare noticing rules (See MaineCare Eligibility Manual, Ch. 332, Part 2, Section 15).

#### **SECTION 5 ADMINISTRATIVE HEARINGS**

Individuals have the right to request a hearing if they disagree with action taken in regard to their eligibility (See ~~Part 1, Section 7~~ 10-144, ch. 104, Section 1, Sec. 1.15).

#### **SECTION 6 GRANDFATHERED GROUP**

Certain individuals do not meet the current eligibility rules for the DEL benefit but they were enrolled in the DEL benefit at one time from 8/1/98 to 7/31/99. These individuals are eligible for DEL as long as another household member is currently enrolled in this benefit.